IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 370 of 1999

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT & 1 - Petitioner(s)

Versus

GULABSINH HARISINH VASAVA - Respondent(s)

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Appearance :

MS HANSA PUNANI A.G.P. for Petitioner No(s).: 1.
Advocate Name None for Petitioner No(s).: for Petitioner No(s).: 2.
MR SHAILESH C PARIKH for Respondent No(s).: 1.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI
Date : 08/08/2005

ORAL JUDGMENT

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1. This petition is directed against the judgment and award dated 17th June, 1997 passed by the Labour Court, Bharuch, in Reference [L.C.V.] No. 483/90, whereby the Labour Court, has directed the petitioner to

reinstate the respondent on his original post with continuity of service along with 25% back wages.

2. The short facts of the case are that the respondent was working as a clerk with the petitioner. The petitioner without following any procedure under the Industrial Disputes Act, 1947, terminated the services of the respondent w.e.f. 17th March, 1985. Feeling aggrieved by the said action, the respondent raised an industrial dispute which was ultimately referred to the Labour Court, Bharuch for adjudication. The Labour Court after considering the materials produced before it passed the impugned award. Hence, this petition.

3. Ms. Punani learned advocate for the petitioner has contended that the Labour Court has proceeded ex-parte, which has caused prejudice to the petitioner and, therefore, the impugned order is required to be quashed and set aside.

4. I have heard the learned counsel for the parties and have perused the materials produced on record. In the impugned award of the Labour Court, it is stated that none appeared for the petitioner. Further from the record

it seems that though the petitioners were served they have chosen not to remain present. Therefore, the fact remains that the impugned award was passed without hearing the petitioner. Therefore, I am of the opinion that the petitioner is required to be given chance of hearing. Accordingly the impugned award is required to be quashed and set aside and the matter is required to be remanded to the Labour Court for fresh decision.

5. In the premises aforesaid, on the facts and circumstances of the case, the impugned award dated 17th June, 1997 passed by the Labour Court, Bharuch in Reference [L.C.S.] No. 483/90 is quashed and set aside. The matter is remanded to the Labour Court, Bharuch for deciding afresh after hearing the petitioner.

6. It is clarified that the Labour Court, Bharuch shall hear and decide the matter as early as possible and preferably within a period of one year from the date of receipt of writ of this order, without being influenced by the earlier order which is quashed in the present petition and also the present order, since the same has been passed without entering in to the merits of the case.

7. However the petitioner shall pay Rs.5000=00 [Rs. Five Thousand Only] to the respondent by way of costs within a period of two weeks from today and the Reference will be heard only after the payment of the aforesaid amount.

8. Rule is made absolute to the aforesaid extent.

[K.S. JHAVERI, J.]

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